

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

GREGORY FOX and RITA FOX, individually
and as parents to C.F.,

Plaintiffs,

v.

PENDER MAKIN,
MAINE SCHOOL ADMINISTRATIVE
DISTRICT 51,
JEFFREY PORTER, SALLY LOUGHLIN, and
COREY MUNSEY,

Defendants.

Civil Action No. 2:22-cv-00251-GZS

SCHOOL DEFENDANTS' RESPONSE TO SUPPLEMENTAL AUTHORITY

Defendants Maine School Administrative District 51 ("MSAD 51"), Jeffrey Porter, Sally Loughlin and Cory Munsey (collectively, the "School Defendants"), provide this response to the Plaintiffs' May 22, 2023 letter (ECF No. 74), and the First Circuit decision in *Lowe v. Mills*, -- F.4th --, 2023 WL 3642081 (1st Cir., May 25, 2023), per this Court's order dated May 26, 2023 (ECF No. 75). In light of the First Circuit's decision in *Lowe*, the School Defendants withdraw the pending Motion to Dismiss (ECF No. 51) as it relates to Plaintiffs' claims for injunctive relief against Superintendent Porter in his official capacity only.

The School Defendants do not withdraw any other portion of the pending motion. For the reasons set forth in the motion, all claims for damages should be dismissed against each of the School Defendants, and Defendants Munsey and Loughlin should be dismissed as defendants entirely.

Regarding Plaintiff's May 22, 2023 letter (ECF No. 74), as the letter itself notes, Plaintiffs declined to agree to the dismissal of any claims against any Defendants, so it was not possible for the parties to agree on a stipulation as anticipated during oral argument. The School Defendants note, however, that both 20-A M.R.S. §6355 and 10-144 C.M.R. Ch. 261 specifically proscribe action by the Superintendent. Accordingly, dismissal of the other individual School Defendants – Principal Munsey and retired Principal Loughlin – in their official capacities as well as their individual capacities, would not prevent Plaintiffs from obtaining adequate relief, should they prevail on their claims for injunctive relief.

DATED: June 5, 2023

/s/ Nathaniel A. Bessey

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